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Paper No. 27

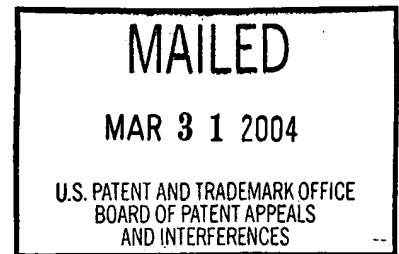
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DENNIS A. KRAMER

Appeal No. 2002-2067
Application No. 09/411,730

ON BRIEF



Before HAIRSTON, KRASS and BARRETT, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-21.

The invention is directed to remote diagnostic checking of an electrical component on a vehicle. Electrical components of a vehicle, e.g., brake lights, are actuated by remote control from an operator outside of the vehicle, permitting a single operator

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outside of the vehicle to make a visual inspection of the components.

Representative independent claim 1 is reproduced as follows:

1. A method of actuating electrical components of a vehicle for performing diagnostic analysis on the electrical components, said method comprising:

relaying a signal from a remote transmitter to a receiver aboard a vehicle;

actuating a plurality of electrical components on the vehicle in response to the signal from the transmitter; and

visually inspecting the actuation of said plurality of electrical components from the location of said remote transmitter.

The examiner relies on the following references:

| | | |
|------------------------------|-----------|---------------|
| Wallace | 5,684,337 | Nov. 4, 1997 |
| Ostermann et al. (Ostermann) | 5,798,576 | Aug. 25, 1998 |
| Doyle et al. (Doyle) | 5,850,188 | Dec. 15, 1998 |
| Traub | 6,265,878 | Jul. 24, 2001 |

(filed Oct. 2, 1998)

Claims 1-5, 7, 8 and 10-18 stand rejected under 35 U.S.C. § 102(e) as anticipated by Doyle. Claims 6, 9, 16 and 19-21 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner cites Doyle in view of either one of Ostermann or Wallace with regard to claims 6, 9 and 16; with regard to claims 19-21, the examiner cites Doyle and Traub.

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Reference is made to the briefs and answer for the respective positions of appellant and the examiner.

OPINION

An anticipatory reference is one which describes all of the elements of the claimed invention so as to have placed a person of ordinary skill in the art in possession thereof. In re Spada, 911 F.2d 205, 15 USPQ2d 1655 (Fed. Cir. 1990).

The examiner offers Doyle as disclosing all of the elements of claims 1-5, 7, 8 and 10-18. In particular, the examiner contends that Doyle discloses a method of actuating electrical components of a vehicle for performing a diagnostic analysis on the electrical components (citing Figures 1 and 3, column 1, lines 61-66; column 2, lines 60-64; and column 5, lines 3-15). In addition to identifying other claimed elements in Doyle, the examiner further cites Figure 1, column 2, lines 56-67; column 4, lines 19-30; and column 5, lines 9-11, as disclosing the claimed actuation of a plurality of electrical components on the vehicle in response to a signal from the transmitter.

We will sustain the rejection of claims 1-4, 7, 8, 15 and 17 although we do not agree with all of the examiner's reasoning.

It is clear, from a reading of Doyle, that the reference is directed to a remote control transmitter for a vehicle which

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operates certain vehicle devices, e.g., door locks, in a conventional manner. Additionally, Doyle's remote control transmitter has another function and that is to run diagnostic tests on functions of the remote transmitter itself. It does not run diagnostic tests of vehicle components, as contemplated by the instant invention. This is made clear at every portion of Doyle cited by the examiner as evidence of diagnostic analysis of electrical components. At column 2, lines 56-67, Doyle discloses that the receiver unit (located in the vehicle) provides a diagnostic report, but the report is provided to the transmitter key fob.

At column 4, lines 19-30, Doyle discloses a command request from the transmitter key fob, this command request locking or unlocking the vehicle doors in a conventional manner, and a diagnostic signal transmission request, wherein a controller polls internal systems 56, such as the fault status of command switches 62, battery charge condition 58 and general circuit conditions and records the results of the polling 62. We note that all of this diagnosis relates to switches on the key fob, battery condition of the key fob remote transmission device and general circuit conditions in the key fob remote transmission device. The information is gathered at the remote device and

transmitted to the receiver unit in the vehicle.

At column 5, lines 9-11, Doyle deals with requests to display diagnostic results.

Nowhere does Doyle disclose, suggest or intimate that the diagnostic checks are being performed on vehicle components, as contemplated by the instant invention. To whatever extent the examiner may choose to call the remote key fob device a "vehicle component," since it "relates" to the vehicle, this would still not lead to a finding of anticipation under 35 U.S.C. § 102(e) because the instant claims (see independent claims 1, 10 and 15) all require that the electrical components being actuated must be "of a vehicle." The electrical components of Doyle's remote key fob transmitter are not electrical components "of a vehicle." Further, independent claim 1 requires that the electrical components be "on the vehicle." Independent claim 10 requires the programming of an electronic control device "on a vehicle" with an actuation sequence for a plurality of "vehicle electrical components." The remote key fob transmitter of Doyle is not a "vehicle electrical component." While the body of independent claim 15 recites nothing that is not disclosed by Doyle, even this broad claim includes, in its preamble, that the diagnostic analysis is performed "upon electronic components of a vehicle"

(emphasis added). In our view, it would not be fair to say that the remote transmitter key fob, and its components, of Doyle constitutes electronic components "of a vehicle" since it is not part of, or attached to, the vehicle.

However, having said that, we agree that Doyle anticipates claims 1-4, 7, 8, 15 and 17 under 35 U.S.C. § 102(e). Rather than focusing on the diagnostic check request from the remote key fob transmitter, we focus on the command request in Doyle, wherein the transmitter acts as a conventional remote control device for locking/unlocking the doors of a vehicle. When the command request is activated, the doors of the vehicle will lock/unlock. These locks are clearly "electrical components of a vehicle," as claimed. Further, a "plurality of electrical components on the vehicle" are actuated in response to this signal from the transmitter since *all* of the doors will be locked/unlocked. Further, the user can usually inspect this actuation of the door locks from a remote distance as the door lock buttons on the inside of the doors will typically move. This is a "visual" inspection. Moreover, as is well known, such remote transmitters, upon actuation of the door locks, will also cause lights on the vehicle to blink to inform the user of an actuation. This, too, is a "visual" inspection. Any

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conventional remoteless key entry would appear to meet the instant claimed limitations.

With regard to claim 17, the remote transmitter is programmed to activate the door locks and, possibly certain lights on the vehicle. As these are preset at the factory, the actuation actuates "selected" ones of the electrical components, those selected ones being the locks and/or lights selected at the factory.

Accordingly, we will sustain the rejection of claims 1-4, 7, 8, 15 and 17 under 35 U.S.C. § 102(e).

We will not sustain the rejection of claims 5, 10-14 and 18 under 35 U.S.C. § 102(e) because these claims require that the electrical components be actuated through an actuation cycle programmed into the electronic control device. The examiner points to nothing within Doyle indicative of a programmed actuation sequence for the vehicle electrical components, relying, instead, on inherency (answer-page 6). However, we find nothing *inherent* about programming an electronic control device on a vehicle with an actuation sequence for a plurality of vehicle electrical components so that these components may be tested.

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We note that the examiner makes no comment about whether it would have been obvious to adapt Doyle's teaching of diagnosing electronic components on a remote transmitter to the diagnosis of electronic components on a vehicle. Therefore, we will not comment on the obviousness of doing so.

We also will sustain the rejection of claims 6, 9 and 16 under 35 U.S.C. § 103 because Doyle is again employed by the examiner, this time as the primary reference. Additionally, Ostermann and Wallace are cited for the wiring of a receiver to electrical components for by-passing an electronic control device in order to directly signal electrical components. Appellant does not dispute the teachings of these secondary references, arguing only the "deficiencies" of Doyle. As stated supra, we do not find deficiencies in Doyle for anticipating claims 1-4, 7, 8, 15 and 17 and, since claims 6, 9 and 16 are dependent on certain ones of these claims, we will sustain the examiner's rejection.

We turn, finally, to the rejection of claims 19-21 under 35 U.S.C. § 103 over Doyle and Traub.

The examiner employs Doyle as above, adding Traub for the teaching of testing brakes and at least some lights on a vehicle.

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We will sustain this rejection because, in our view, Traub more than makes up for any deficiencies which may exist in Doyle. In fact, we find Traub, alone, would anticipate, and certainly make obvious, the instant claimed subject matter. Traub clearly tests operation of electronic components, such as brakes, and lights, on a vehicle and does so with a remote control so that the testing may be performed by one person, just as in the instant invention.

Alternatively, Traub is merely cumulative to Doyle's teachings because, as explained supra, it was well known to artisans that operation of a remote transmitter to operate door locks on a vehicle will usually also blink the lights on the vehicle, as well as make an audible sound.

Therefore, we will sustain the rejection of claims 19-21 under 35 U.S.C. § 103.

Moreover, we have reviewed Traub and we note the highly relevant nature of this reference. We find it curious that the examiner did not apply Traub as an anticipatory reference against at least the claims not requiring the programmed sequence. Traub does appear to disclose a plurality of switches, with each switch, which can be "programmed," connected to actuate a different electrical component on the vehicle. There does not

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appear to be a "programming...with an actuation sequence."

CONCLUSION


We have sustained the rejection of claims 6, 9, 16 and 19-21 under 35 U.S.C. § 103. Additionally, we have sustained the rejection of claims 1-4, 7, 8, 15 and 17 under 35 U.S.C. § 102(e). We have not sustained the rejection of claims 5, 10-14 and 18 under 35 U.S.C. § 102(e).

Accordingly, the examiner's decision is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

~~AFFIRMED~~-IN-PART

KENNETH W. HAIRSTON
Administrative Patent Judge


ERROL A. KRASS
Administrative Patent Judge

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Administrative Patent Judge

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